REMARKS

Claims 1-5, 9-15, and 28 are pending in the Application and stand rejected. Reconsideration is respectfully requested.

Claim 1 was rejected under 35 U.S.C. 103(a) as being obvious from the combination of Saunders, Tzanetakis, and Yamamoto.

Claim 1 is amended to recite, among other limitations, "analyzing selected audio frequency components". The Office Action indicates that Saunders teaches "analyzing selected audio signal componennts (The first step is to measure the ZCR of the signal over a 2.4 second segment of the data; page 994, column 2, line 43)". The Office Action also indicates that "Tzanetakis teaches the audio signal components are audio frequency components" and that "it would be obvious to ... combine the decompression of Tzanetakis with system of Saunders in order to be able to apply the traditional methods of Saunders to MPEG audio files, Cook introduction 1, paragraph 2."

However, the foregoing does not establish why it would be obvious to modify Saunders "measure the ZCR of the signal over a 2.4 second segment of the data", to use "audio frequency components" instead of the 2.4 second segment of the data. Accordingly, Assignee respectfully traverses the rejection because the foregoing does not even establish a *prima facie* case of obviousness.

Moreover, Saunders teaches away from the foregoing modification. For example, Saunders teaches that "The ZCR per unit time is effective at following dominant component of the spectral composition and hence an be a good discriminator." Saunders, p. 994, third full paragraph. "Speech signals produce a marked rise in the ZCR during periods of fricativity occurring at the beginning and end of words. ... An algorithm that can capture this bimodality would successful as a music/speech discriminator. ... The contour of music tends to show a much smaller number of dips and peaks than speech and it quite often shows little change over a period of several seconds. ... The algorithm

is based on the loopsidedness of the distribution of the ZCR. The first step is to measure the ZCR of the signal over a 2.4 segment of the data."

Assignee respectfully submits that the foregoing teaches away from the proposed modification. Accordingly, Assignee respectfully traverse the rejection to claim 1 and its dependent claims.

Final Matters

The Office Action makes various statements regarding the remaining claims and the references that are now moot in view of the previously presented amendments and/or arguments. Thus, the Applicants will not address all of such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

Applicants reserve the right to argue additional reasons supporting the allowability of the remaining claims should the need arise in the future.

CONCLUSION

Applicant respectfully submits that claims 1-6 and 8-26 are in condition for allowance, and requests that the application be passed to issue.

Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Please charge any required fees not paid herewith or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Date: _April 29, 2010_   Respectfully submitted,

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